

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LINDA ALLEN,

Plaintiff,

v.

No. 14-CV-00059 JCH/RHS

**THE CITY OF ALBUQUERQUE,
MAYOR RICHARD J. BERRY,
in his official capacity as Mayor of Albuquerque,**

Defendants.

**PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANT'S
MOTION IN LIMINE AND DAUBERT MOTIONS**

Comes now the Plaintiff by and through her attorney and submits her Motion in opposition to the Defendant's motion in Limine and Daubert motion.

Plaintiff's Facts

1. Plaintiff did disclose Julita Pezzano as the Plaintiff's treating physician. (Defendant's Exhibit A)
2. Plaintiff intends to use and has disclosed Plaintiff's Psychotherapist Julita Pezzano to testify to what the Plaintiff has told her in their appointments.
3. Defendants have taken Psychotherapist Julita Pezzano's deposition. (Defendant's Exhibit C)
4. Plaintiff does not intend to have Psychotherapist Pezzano testify as an expert witness or give a diagnosis.

Argument

Plaintiff has disclosed and intends to use Psychotherapist Julita Pezzano to speak about what the Plaintiff has told her during their sessions. This information will be used to support the testimony of the Plaintiff and show the veracity in her claims and testimony.

Because of this Psychotherapist Pezzano is correctly listed as a witness and will testify only to her knowledge of what the Plaintiff has stated.

Finally because Psychotherapist Pezzano is testifying as a lay witness as to what she was told by the Plaintiff, a Daubert analysis is improper and not necessary.

Therefore Plaintiff moves this court to deny the Defendant's motion in Limine and Daubert motion and allow witness Pezzano to testify to what the Plaintiff disclosed to her during their sessions.

/s/ Christopher N. Orton

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I hereby certify that a true and correct copy of the foregoing was emailed and mailed to opposing counsel (Attorney Deborah Wells) on this 8th day of December, 2014.

/s/ Christopher N. Orton